

Order

Michigan Supreme Court
Lansing, Michigan

December 18, 2008

Clifford W. Taylor,
Chief Justice

136852

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 136852
COA: 284739
Jackson CC: 05-001612-FC

JEFFREY LAWRENCE BEMER,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the May 15, 2008 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REMAND this case to the Court of Appeals for consideration as on leave granted. The Court of Appeals shall address whether a sentencing judge has discretion under MCL 777.22(1) and MCL 777.42(1) to purposely score Offense Variable 12 at zero points in order to achieve a higher score under Offense Variable 13.

We do not retain jurisdiction.

KELLY, J., would grant leave to appeal.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

December 18, 2008

Corbin R. Davis

Clerk